

FILED

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2012 JUN 22 AM 10:08

CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

BY \_\_\_\_\_

5 Attorneys for Plaintiff,  
6 ANGELA HICKS

7

8                   **UNITED STATES DISTRICT COURT**  
9                   **CENTRAL DISTRICT OF CALIFORNIA**

11 ANGELA HICKS,  
12                   Plaintiff,

13                   vs.

15 CONSUMER PORTFOLIO  
16 SERVICES, INC; and DOES 1 to 10,  
17 inclusive,

18                   Defendants.

Case No.: SACV12-10317JC (MLG)

19                   **COMPLAINT AND DEMAND FOR**  
20                   **JURY TRIAL**

21                   **(Unlawful Debt Collection Practices)**

22                   **COMPLAINT AND DEMAND FOR JURY TRIAL**

23                   **INTRODUCTION**

24       1. This is an action for actual and statutory damages brought by plaintiff  
25       Angela Hicks an individual consumer, against defendant Consumer Portfolio  
26       Services, Inc., for violations of the law, including but not limited to violations of  
27       the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (hereinafter  
28       “FDCPA”) and the Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code

§§ 1788 *et seq.* (hereinafter “RFDCPA”), which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices.

## JURISDICTION

2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d), Cal. Civ. Code §§ 1788.30, and 28 U.S.C. § 1331 and § 1337. Venue in this District is proper in that the Defendant transacts business here and the conduct complained of occurred here.

PARTIES

3. Plaintiff, Angela Hicks is a consumer, a natural person allegedly obligated to pay any debt, residing in the state of Illinois.

4. Defendant, Consumer Portfolio Services, Inc. is a corporation engaged in the business of collecting debt in this state with its principal place of business located in Orange County, Irvine, California. The principal purpose of Defendant is the collection of debts in this state and Defendant regularly attempts to collect debts alleged to be due another.

5. Defendant is engaged in the collection of debts from consumers using the mail and telephone. Defendant regularly attempts to collect consumer debts alleged to be due to another. Defendant is a "debt collector" as defined by the FDCPA, 15 U.S.C. § 1692a(6), and the Cal. Civ. Code § 1788.2.

## **FACTUAL ALLEGATIONS**

6. Upon information and belief, within one year prior to the filing of this complaint, Defendant placed collection calls to Plaintiff, calls which displayed the intent to harass and annoy Plaintiff, seeking and demanding payment for an alleged consumer debt owed under an account number.

7. The debt that Defendant is attempting to collect on is an alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.

8. Upon information and belief, Defendant began contacting Plaintiff and placing collection calls to Plaintiff prior to May 10, 2012.

9. Upon information and belief, within one year of the filing of this complaint, continued to call Plaintiff numerous times after having already been given reason to know that Plaintiff was not the individual responsible for the alleged debt.

10. As a result of the acts alleged above, Plaintiff suffered emotional distress resulting in Plaintiff feeling stressed, and embarrassed, amongst other negative emotions.

## **FIRST CLAIM FOR RELIEF**

11. Plaintiff repeats and realleges and incorporates by reference to the foregoing paragraphs,

12. Defendant violated the FDCPA. Defendant's violations include, but are not limited to, the following:

(a) Defendant violated §1692f of the FDCPA by using unfair or unconscionable means in connection with the collection of an alleged debt; and

(b) Defendant violated §1692d(5) of the FDCPA by causing Plaintiff's telephone to ring continuously with intent to annoy, abuse, or harass, the natural consequence of which was to harass, oppress and/or abuse Plaintiff.

13. As a result of the foregoing violations of the FDCPA, Defendant is liable to the plaintiff Angela Hicks for actual damages, statutory damages, and costs and attorney fees.

## **SECOND CLAIM FOR RELIEF**

14. Plaintiff repeats and realleges and incorporates by reference the foregoing paragraphs.

15. Defendant violated the RFDCPA. Defendant's violations include, but are not limited to the following:

(a) Defendant violated §1788.17 of the RFDCPA by being a debt collector collecting or attempting to collect a consumer debt that is not compliant with the provisions of Sections 1692b to 1692j of the FDCPA, the references to federal codes in this section referring to those codes as they read as of January 1, 2001.

16. As a result of the foregoing violations of the RFDCPA, Defendant is liable to the plaintiff Angela Hicks for actual damages, statutory damages, and costs and attorney fees.

### **THIRD CLAIM FOR RELIEF**

### *(Invasion Of Privacy By Intrusion Upon Seclusion)*

17. Plaintiff Angela Hicks repeats, realleges, and incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

18. Congress explicitly recognized a consumer's inherent right to privacy in collection matters in passing the Fair Debt Collection Practices Act, when it stated as part of its findings:

**Abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy.**

<sup>15</sup> U.S.C. § 1692(a) (emphasis added).

19. Congress further recognized a consumer's right to privacy in financial data in passing the Gramm Leech Bliley Act, which regulates the privacy of

1 consumer financial data for a broad range of “financial institutions” including debt  
2 collectors, albeit without a private right of action, when it stated as part of its  
3 purposes:  
4

5 It is the policy of the Congress that **each financial institution has an**  
6 **affirmative and continuing obligation to respect the privacy of its**  
7 **customers** and to protect the security and confidentiality of those  
customers’ nonpublic personal information.

8                   15 U.S.C. § 6801(a) (emphasis added).

9                 20. Defendants and/or their agents intentionally and/or negligently  
10 interfered, physically or otherwise, with the solitude, seclusion and/or private  
11 concerns or affairs of Plaintiff, namely, by repeatedly and unlawfully attempting to  
12 collect a debt and thereby invaded Plaintiff’s privacy.  
13

14                 21. Defendants also intentionally and/or negligently interfered, physically  
15 or otherwise, with the solitude, seclusion and/or private concerns or affairs of the  
16 Plaintiff, namely, by repeatedly and unlawfully contacting Plaintiff without her  
17 consent, and thereby invaded Plaintiff’s right to privacy.  
18

20                 22. Defendants and their agents intentionally and/or negligently caused  
21 emotional harm to Plaintiff by engaging in highly offensive conduct in the course  
22 of collecting this debt, thereby invading and intruding upon Plaintiff’s right to  
23 privacy.  
24

25                 23. Plaintiff had a reasonable expectation of privacy in Plaintiff’s  
26 solitude, seclusion, private concerns and affairs.  
27

1  
2       24. The conduct of these Defendants and their agents, in engaging in the  
3 above-described illegal collection conduct against Plaintiff, resulted in multiple  
4 intrusions and invasions of privacy by these Defendants which occurred in a way  
5 that would be highly offensive to a reasonable person in that position.

6  
7       25. Defendants' acts as described above were done intentionally with the  
8 purpose of coercing Plaintiff to pay the alleged debt.

9  
10      26. As a result of such intrusions and invasions of privacy, Defendants are  
11 liable to Plaintiff for actual damages in an amount to be determined at trial from  
12 each and every Defendant.

13  
14      27. Defendant's acts as described above were done intentionally with the  
15 purpose of coercing Plaintiff to pay the alleged debt.

16  
17  
18      **WHEREFORE**, Plaintiff Angela Hicks respectfully requests that judgment be  
19 entered against defendant Consumer Portfolio Services, Inc. for the following:

20  
21      A. Actual damages from each Defendant pursuant to 15 U.S.C. §  
22  
23           1692k(a)(1) for the emotional distress suffered as a result of the  
24           intentional and/or negligent FDCPA and RFDCPA violations, and from  
25           each Defendant for intentional and/or negligent invasions of privacy in an  
26           amount to be determined at trial and for Plaintiff.

- 1           B. Statutory damages pursuant to 15 U.S.C. § 1692k.  
2           C. Statutory damages pursuant to Cal. Civ. Code § 1788.30.  
3           D. Costs and reasonable attorney fees pursuant to 15 U.S.C. § 1692k and  
4           Cal. Civ. Code § 1788.30.  
5           E. For such other and further relief as the Court may deem just and proper.

6

7           **DEMAND FOR JURY TRIAL**

8

9           Please take notice that plaintiff ANGELA HICKS demands trial by jury in this  
10          action.

11

12

13          DATED: June 18, 2012

14

RESPECTFULLY SUBMITTED,  
**PRICE LAW GROUP APC**

15

16          By: \_\_\_\_\_

17

G. Thomas Martin, III  
Attorney for Plaintiff

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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

ANGELA HICKS	CASE NUMBER
PLAINTIFF(S)	<u>SACV12-1031-CJC(mlg)</u>
v. <b>INC</b> CONSUMER PORTFOLIO SERVICES, and DOES 1 to 10, inclusive,	
DEFENDANT(S).	SUMMONS

TO: DEFENDANT(S):

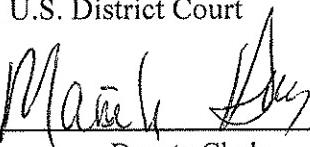
A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached  complaint  amended complaint  counterclaim  cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, G. Thomas Martin, III (SBN 218456), whose address is 15760 Ventura Boulevard, Suite 1100; Encino, California 91436. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Dated: \_\_\_\_\_

JUN 22 2012

Clerk, U.S. District Court

By:   
 Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3).]

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA**  
**CIVIL COVER SHEET**

<b>I (a) PLAINTIFFS</b> (Check box if you are representing yourself <input type="checkbox"/> ) ANGELA HICKS  <b>ILLINOIS</b>	<b>DEFENDANTS</b> CONSUMER PORTFOLIO SERVICES; and DOES 1 to 10, inclusive,  <b>ORANGE COUNTY</b>				
<b>(b) Attorneys</b> (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)  G. Thomas Martin, III (SBN 218456) PRICE LAW GROUP, APC 15760 Ventura Blvd., #1100, Encino, CA 91436; T: (818) 907-2030	<b>Attorneys (If Known)</b>				
<b>II. BASIS OF JURISDICTION</b> (Place an X in one box only.)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only</b> (Place an X in one box for plaintiff and one for defendant.)				
<input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)	Citizen of This State <input type="checkbox"/> PTF <input type="checkbox"/> DEF <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	Citizen of Another State <input type="checkbox"/> PTF <input type="checkbox"/> DEF Citizen or Subject of a Foreign Country <input type="checkbox"/> PTF <input type="checkbox"/> DEF			
	Incorporated or Principal Place of Business in this State <input type="checkbox"/> 1 <input type="checkbox"/> 1	Incorporated and Principal Place of Business in Another State <input type="checkbox"/> 2 <input type="checkbox"/> 2	Foreign Nation <input type="checkbox"/> PTF <input type="checkbox"/> DEF		
	<input type="checkbox"/> 4 Reinstated or <input type="checkbox"/> 5 Transferred from another district (specify): <input type="checkbox"/> 6 Multi-District Litigation	<input type="checkbox"/> 3 <input type="checkbox"/> 3	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge		
<b>IV. ORIGIN</b> (Place an X in one box only.)					
<input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): <input type="checkbox"/> 6 Multi-District Litigation		<input checked="" type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge			
<b>V. REQUESTED IN COMPLAINT: JURY DEMAND:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Check 'Yes' only if demanded in complaint.)					
<b>CLASS ACTION under F.R.C.P. 23:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<b>MONEY DEMANDED IN COMPLAINT:</b> \$ According to Proof			
<b>VI. CAUSE OF ACTION</b> (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) 15 USC 1692; UNLAWFUL DEBT COLLECTION PRACTICES					
<b>VII. NATURE OF SUIT</b> (Place an X in one box only.)					
<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>TORTS</b> <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage <b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 448 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 511 Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <b>FORFEITURE / PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

FOR OFFICE USE ONLY: Case Number: SACV12-1031

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA**  
**CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed?  No  Yes  
If yes, list case number(s): \_\_\_\_\_

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case?  No  Yes  
If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

- (Check all boxes that apply)
- A. Arise from the same or closely related transactions, happenings, or events; or
  - B. Call for determination of the same or substantially related or similar questions of law and fact; or
  - C. For other reasons would entail substantial duplication of labor if heard by different judges; or
  - D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.  
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District: <sup>*</sup>	California County outside of this District; State, if other than California; or Foreign Country
	ILLINOIS

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.  
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District: <sup>*</sup>	California County outside of this District; State, if other than California; or Foreign Country
ORANGE COUNTY	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.  
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District: <sup>*</sup>	California County outside of this District; State, if other than California; or Foreign Country
	ILLINOIS

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): G. Thomas Nelson Date 06/11/2012

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))